

MEMO TO ZONING REFORM GROUP

From Jason Rosenberg

Date:: June 24,2011

Subject: Notes of Meeting of Marc Hershman and Jason Rosenberg on May 31, 2011

The following are notes of the discussion which we had in anticipation of a follow-up which would be a meeting of the two of us prior to the June 27 meeting of the Zoning Reform Group. We had assumed that meeting would be under the Open Meeting Law rules if the Law Department so determined. I became ill about 10 days later and we have not yet to schedule the meeting. What follows also has not yet been seen by Marc who has been away on vacation.

The notes are to give the ZRG a sense of the scope and issues Marc and I were considering.

COMMERCIAL ZONES

Summary Notes

Marc S Hershman and

Jason A. Rosenberg

A. We first discussed some background of current zoning provisions for commercial districts.

-The current zoning provisions for commercial districts are Business (primarily 1 and 2, but there are a total of 1-5 and PMBDs or Planned Multi-Use Business Districts), Light Manufacturing, Manufacturing, and Mixed Use (1, 2). Most of these districts were either significantly modified or created in the 1987 re-codification, which was primarily a recodification as to commercial areas, and a reaction to what were perceived to be “bad” projects, i.e., 4 or 5 by-right Business zone projects in different parts of the City (Atrium Mall, so-called Antaramian Office Building at four corners, Mayflower Office Building and garage in West Newton, and Paragon Office Building on Needham Street). They were disliked most of all for size and exterior design, i.e., minimum style and maximum massing. In 1987, maximum allowable by-right dimensions were significantly reduced, e.g., by-right 6 story became 2-story. Some improvements in text and organization were added, such as tables. The creation of staged controls for differing business building sizes was introduced (i.e., by-right 0-9,999 gsf; site plan approval 10,000 – 19999 gsf; and special permit 20,000 gsf and up).

-One key change to Business zones is that they no longer were cumulative, i.e., one could use land and buildings for everything by-right and by special permit which were in the more restrictive residential districts, plus the specified business uses in the Business zones. Except for housing above the first floor commercial uses and special permit multiple unit housing, all other housing essentially became nonconforming.

-None of the newly created or modified commercial districts were tailored for local village centers. PMBDs were designed for very large parcels, typically not within a village business area, e.g., Riverside and former Omni site. Mixed 1 and Mixed 2 were an effort to deal with Needham Street, which prior to the 1987 recodification was zoned Manufacturing. and at that time was having an avalanche of retail and restaurants

replacing manufacturing and R&D. The pre-1987 Manufacturing and Limited Manufacturing zone provisions allowed retail and restaurant. The recodification hasn't restored levels of manufacturing and R&D, and the gradual trend toward retail, restaurant and service uses continues. The basic economic reality is that Newton land is too valuable and pricey, and taxed at too high a level such that manufacturing and much of R&D are not financially viable. Instead, the Mixed 1 and 2 districts impose many levels of special permits, which limit the economic vitality and are slow and cumbersome, with the additional impact that developers and end-users (e.g., stores and restaurants) go to Needham and other bordering communities in which either the zoning is "right" or the special permit process is faster, or changing uses within the existing building is faster – or all three. None of the post 1987 provisions genuinely deal with the design and feel of the buildings, roadways, driveways, etc. so Needham Street has no visual identity and has the feel of a balkanized strip with a hodgepodge of buildings, setbacks and driveways.

-Village business areas typically are Business 1 and Business 2 districts. Other than the ability of the Board of Aldermen to provide some limited parking waivers and allow an increase in stories, the Aldermen have not given themselves the powers to flexibly deal with the common issues in village centers, e.g., older buildings with often nonconforming heights, setbacks and other dimensional aspects; and with significant differences between the various business village centers. The villages typically have a mix in types and uses, and style and sizes of buildings. The zoning provisions do not contain powers and standards to preserve or enhance those features deemed important in a particular business block or entire business village.

-Underlying all of the above historically has been a fear that if the Aldermen provide by-right flexibility or additional special permit powers aimed at flexibility, this will create unintended opportunities with potential negative consequences, most significantly expected to fall upon adjoining residential areas. This reflects fear and distrust for present and future Boards of Aldermen.

*****SEE NEXT PAGE FOR PRINCIPALS AND GOALS*****

B. WE THEN TURNED TO THE MATRIX AND CAME UP WITH THE FOLLOWING FOR MARC AND I TO DISCUSS FURTHER AT OUR NOW-POSTPONED SUBCOMMITTEE MEETING:

PRINCIPLES	PLANNING GOALS
Speed	
Easy to use	
Predictable	
Internally consistent with comprehensive plan	
Produces result consistent with desired goal	
	Encourage walking - village centers
	Preserve & restore village center characters
	Encourage affordable and mixed income housing in and immediately adjoining village centers to support businesses and attract residents
	*Resolve tension between need to renew & rejuvenate businesses and underlying non-Newton through-traffic
	*Adapt criteria for uses and building sizes to minimize or avoid real impacts, not “feared” impacts for adjoining residential areas
	Foster sustainability of character and types of buildings and uses
	*balance encouragement of economic vitality & protection of adjoining residential areas from impact
Pick right tool for real problem	Flexibility of choices & gradations of approval process related to choices, e.g byright, site plan approval, special permit; & different approval bodies: zoning administrator, appointed board, Board of Aldermen
	Economic incentives, e.g., bigger floor area in return for aesthetic exterior with reduced bulk; or exterior compatible with adjoining buildings
	Encourage economic competitiveness viz. adjoining cities and towns
	Recognize need for PMBDs or Overlays for different village centers, and different large parcels to meet particular differences unique to an area or parcel

***related**

Note: also discussed was the reality that Newton makes more difficult small changes for homeowner which changes may have no impact whatsoever, while some big changes in commercial districts can take place without assessing the actual impact. This issue directly impacts the development but

more significantly the rejuvenation of residential areas and the level of real estate taxes and permit fees, which Newton tends to lose.